THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

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WRIT PETITION No : 22602 of 2005

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Dated : 27-10-2005

Between:

K.Srinivasu.

..... PETITIONER

AND

The A.P.Co-operative Bank Limited.

.....RESPONDENT

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ORDER:

Petitioner filed this petition seeking a direction to the A.P.Co-operative Bank Limited (respondent bank) to consider his claim as the sole legal heir to the estate of his parents Smt.Swarajya Laxmi and Nageshwar Rao on the basis of the legal heir certificate issued by the Mandal Revenue Officer, Saroornagar, without insisting on production of a Succession Certificate for releasing the amount covered by the fixed deposits made by his parents in the respondent bank.

2 . The contention of the learned counsel for the petitioner is that since petitioner is the sole heir to the estate of his parents, as seen from the legal heir certificate issued by the Mandal Revenue Officer, Saroornagar, who has the authority to issue such certificate, respondent bank insisting on production of a Succession Certificate, ignoring the legal heir certificate issued by the Mandal Revenue Officer, Saroornagar, for releasing the amounts deposited by his parents in fixed deposits is wholly improper and unjust more so because the other banks in which the parents of the petitioner made the deposits released the amounts without insisting on production of a Succession Certificate.

3. The contention of the learned Standing Counsel for the respondent bank is that this petition is premature because no communication received by the petitioner from the respondent bank asking him to produce a Succession Certificate for releasing the FDR amounts of his parents to him, is produced by the petitioner. It is his contention that as per the guidelines issued by the

Reserve Bank of India, which were binding on all the banks, only in cases where the deposits do not exceed Rs.25,000/- they would not insist on the production of a Succession Certifiaate.

4. Irrespective of the question whether a writ petition against the respondent, which is a cooperative bank, is maintainable or not, in my considered opinion respondent bank, even if it asks the petitioner for producing a Succession Certificate for release of the amounts deposited by his parents in his favour, cannot be said to have acted arbitrarily, by not accepting the legal heir certificate issued by the Mandal Revenue Officer, because legal heir certificate does not afford any protection to it, as is provided by a Succession Certificate as per Section 381 of the Indian Succession Act,1925, whichlays down that a Succession Certificate issued in respect of debts and securities mentioned therein would be conclusive as against the persons owing such debts or liabilities on such securities, and affords full indemnity to all such persons as regards all payments made to the person to whom the certificate was granted. It is also pertinent to note that Section 214 of the Succession Act places an embargo on the Court passing a decree in favour of the legal representatives of a deceased creditor in a suit for recovery of a debt without their producing a Succession Certificate, probate a letter of administration, obviously to afford protection to the debtor from rival claimants of the debt which cannot be provided by a legal heir certificate issued by a Mandal Revenue Officer.

5. The relationship between the deceased parents of the petitioner and the respondent bank, in view of the ratio in ***SHANTI PRASAD v. DIRECTOR OF ENFORCEMENT*** would be that of a creditor and debtor and hence those would be debts or securities payable to the parents of the petitioner within the meaning of Section 370 of the Indian Succession Act and so even if the respondent was to ask the petitioner for production of a succession certificate, for releasing the

amounts covered by the fixed deposits made by his parents, in his favour, such insistence cannot be said to be unreasonable and unwarranted.

6. It is for the respondent bank to take a decision whether to act on the legal heir Certificate issued by the Mandal Revenue officer, Saroornagar, or to insist upon production of a Succession Certificate or to take any another form of security from the petitioner for releasing the amounts covered by the fixed deposits of his parents in his favour, but this court cannot interfere with the discretion exercised by the respondent, for its own safety. As rightly contended by the learned counsel for the respondent since the petitioner did not produce any document to show that respondent insisted on his production of a Succession Certificate, petitioner is at liberty to make an application to the respondent for payment of the amount covered under the fixed deposit made by his parents to him basing on the Legal Heir Certificate issued by the Mandal Revenue Officer, Saroornagar. The respondent can consider that application of the petitioner and communicate its decision to the petitioner, but no relief can be granted by this Court to the petitioner on this petition.

7. The writ petition is accordingly disposed of. No order as to costs.

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27-10-2005

Note:

L.R.copy to be marked.

B/o.

Prv